



**Public Hearing  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 55  
AGENDA DATE: Thu 01/12/2006  
PAGE: 1 of 1**

**SUBJECT:** Conduct a public hearing to consider a request for a waiver from the minimum distance requirement of City Code Section 4-9-4(A) which requires 300 feet between a business that proposes to sell alcoholic beverages at 4800 Burnet Road and a public school, Texas School for the Blind and Visually Impaired, at 1100 West 45th Street.

**AMOUNT & SOURCE OF FUNDING:** N/A

**FISCAL NOTE:** There is no unanticipated fiscal impact. A fiscal note is not required.

**REQUESTING** Watershed Protection and **DIRECTOR'S**  
**DEPARTMENT:** Development Review **AUTHORIZATION:** Joe Pantalione

**FOR MORE INFORMATION CONTACT:** Luci Gallahan, 974-2669; Joan Esquivel, 974-3371

**PRIOR COUNCIL ACTION:** December 15, 2005 - Set the public hearing.

**BOARD AND COMMISSION ACTION:** N/A

**PURCHASING:** N/A

**MBE / WBE:** N/A

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The owner of Sampaio's Restaurant, Magna Sampaio, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code because she intends to sell alcoholic beverages at her restaurant which is located 81 feet from a public school, Texas School for the Blind and Visually Impaired, at 1100 West 45th Street.

Section 4-9-5 allows the City Council to waive the 300 foot distance requirement if they determine that enforcement of the distance requirement in a particular instance:

- (1) is not in the best interest of the public;
- (2) constitutes waste or the inefficient use of land or other resources;
- (3) creates an undue hardship on an applicant;
- (4) does not serve its intended purpose;
- (5) is not effective or necessary; or
- (6) for any other reason the council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

Section 4-9-5(B) provides that the City Council may consider a written consent to the waiver of the 300 foot distance requirement provided by each church, public school, public hospital, day-care center or child-care facility within 300 feet of the proposed place of business to be sufficient justification for the waiver. Written consent has been received from Dr. Phil Hatlen, Superintendent of Texas School for the



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**Blind and Visually Impaired.**

STAFF REPORT

ALCOHOLIC BEVERAGE WAIVER REQUEST

CASE NUMBER: SP-05-1591(AW)

NAME AND LOCATION OF RESTAURANT: Sampaio's Restaurant, 4800 Burnet Road, Bldg. B.

NAME AND LOCATION OF SCHOOL WITHIN 300 FEET OF PROPOSED SALE OF ALCOHOLIC BEVERAGES: Texas School for the Blind and Visually Impaired, 1100 W. 45<sup>th</sup> Street

ZONING: CS

NEIGHBORHOOD PLAN: N/A

APPLICANT: Magna Sampaio

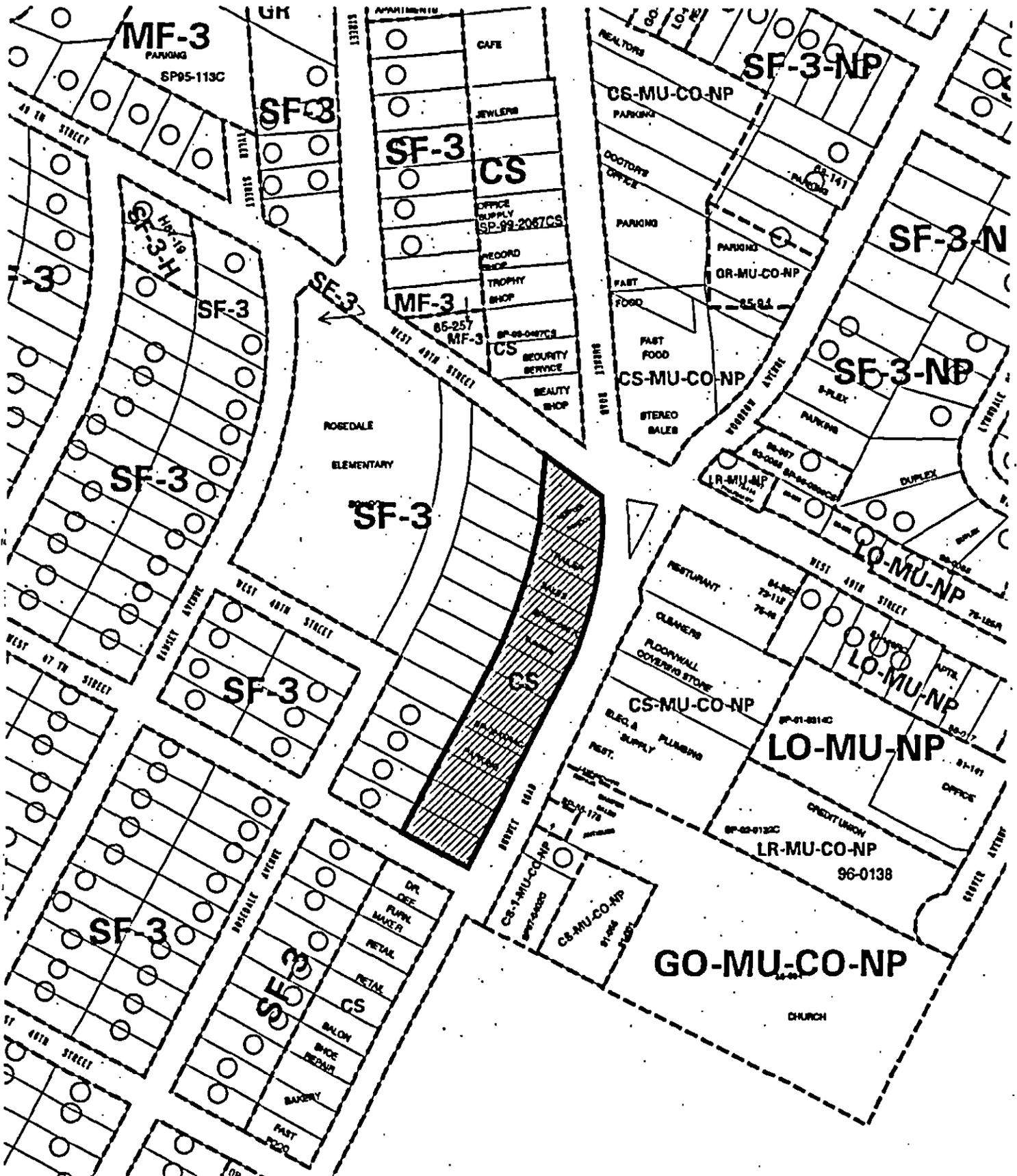
REQUEST: The applicant, Magna Sampaio, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code. Ms. Sampaio is proposing selling alcoholic beverages at her restaurant, which is located 81 feet from the Texas School for the Blind and Visually Impaired.

Section 4-9-5(A) allows the City Council to waive the 300 foot distance requirement if they determine that enforcement of the distance requirement in a particular instance:

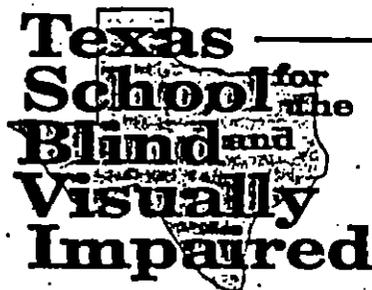
- (a) is not in the best interest of the public;
- (b) constitutes waste or the inefficient use of land or other resources;
- (c) creates an undue hardship on an applicant
- (d) does not serve its intended purpose
- (e) is not effective or necessary; or
- (f) for any other reason the City Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

Section 4-9-5(B) provides that the City Council may consider a written consent to the waiver of the 300-foot distance requirement provided by each church, public school, public hospital, day-care center or child-care facility within 300 feet of the proposed place of business to be sufficient justification for the waiver. The superintendent for the Texas School for the Blind and Visually Impaired, Phil Hatlen, has provided a letter indicating he is in support of the request.

Staff recommends approval of the waiver request.



<p>1" = 200'</p>	<p>SUBJECT TRACT</p> <p>PENDING CASE</p> <p>ZONING BOUNDARY</p> <p>CASE MGR: LGALLAHAN</p>	<p></p> <p></p> <p></p>	<p><b>SITE PLAN</b></p> <p>CASE #: SP-05-1591(AW)</p> <p>ADDRESS: 4800 BURNET RD.</p> <p>SUBJECT AREA (acres): N/A</p>	<p>DATE: 05-10</p> <p>INTLS: TRC</p>	<p>CITY GRID REFERENCE NUMBER</p> <p>J28</p>
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Dr. Phil Hatlen, Superintendent

A Center for Educational Services for All  
Blind and Visually Impaired Students in Texas  
1100 W. 45<sup>th</sup> Street, Austin, Texas 78756-3494  
(512) 454-8631  
1-800-TSB-KARE  
TDD (512)-206-9451  
www.tsbvi.edu

October 3, 2005

Magna Sampaio  
Sampaio's Restaurant and Bar  
4800 Burnet Re., Suite 200  
Austin, TX 78756

Dear Ms. Sampaio,

This letter is to inform you that the Texas School for the Blind and Visually Impaired has no objection to the Sampaio's Restaurant and Bar receiving a permit to sell mix beverage (alcoholic beverage). We do not believe this represents any hazards for our students.

If you are not providing this service already, I ask in return that you Braille menus available for blind customers.

Sincerely,

  
Phil Hatlen  
Superintendent

**BOARD OF TRUSTEES:**

Parents of Persons with Visual Impairments:  
Orlito Galindo, San Angelo  
Jamie Wheeler, North Richland Hills  
Janet Ardoyno, Abilene

Consumers with Visual Impairments:  
Gene Brooks, Austin  
Jesus Bautista, El Paso  
Mary Sue Welch, Dallas

Persons Working with the Visually Impaired:  
Donna Vaden Clopton, Weatherford  
Deborah Louder, San Angelo  
Frankie D. Swift, President

**FAX:**

Business Office (512)206-9452  
Central Mail Room (512)206-9450  
Outreach Services (512)206-9320  
Superintendent (512)206-9453  
Admissions (512)206-9148

USAGE: TEXAS SCHOOL FOR BLIND & VISUALLY IMPAIRED  
ZONING: UNZ

USAGE: SHOPPING CENTER  
ZONING: CS

USAGE: RESIDENTIAL  
ZONING: SF3

47TH STREET

47TH STREET

ROSDALE AVE

48TH STREET

USAGE: SHOPPING CENTER  
ZONING: CS

USAGE: ROSDALE ELEMENTARY SCHOOL  
ZONING: SF3

BURNET ROAD

81.5'

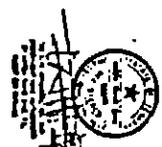


⊕ SITE PLAN  
SCALE

NO.	DESCRIPTION	AREA (SQ. FT.)	TOTAL AREA (SQ. FT.)
1	Building Footprint	10,000	10,000
2	Parking	5,000	15,000
3	Landscaping	2,000	17,000
4	Other	1,000	18,000
TOTAL			18,000



NOTES:  
1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE INTERNATIONAL PLUMBING CODE (IPC).  
2. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.  
3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.  
4. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES.  
5. THE CONTRACTOR SHALL MAINTAIN ADEQUATE DRAINAGE AND EROSION CONTROL MEASURES.  
6. THE CONTRACTOR SHALL MAINTAIN ADEQUATE SAFETY MEASURES FOR ALL WORKERS AND THE PUBLIC.  
7. THE CONTRACTOR SHALL MAINTAIN ADEQUATE RECORDS OF ALL CONSTRUCTION ACTIVITIES.  
8. THE CONTRACTOR SHALL MAINTAIN ADEQUATE COMMUNICATIONS WITH THE ARCHITECT AND THE OWNER.  
9. THE CONTRACTOR SHALL MAINTAIN ADEQUATE RECORDS OF ALL MATERIALS AND LABOR USED.  
10. THE CONTRACTOR SHALL MAINTAIN ADEQUATE RECORDS OF ALL TESTS AND INSPECTIONS.



<p>2</p>	<p>2500</p>	<p>SAMPAO'S RESTAURANT 1000 BLAKE T. BOWEN, DALLAS, TEXAS DALLAS, TEXAS 75201</p>	<p>PROFESSIONAL STRUCTURAL ENGINEERS, INC. 1000 BLAKE T. BOWEN, DALLAS, TEXAS DALLAS, TEXAS 75201</p>	<p>DATE: 12/31/2024</p>	<p>SCALE: 1/8" = 1'-0"</p>	<p>PROJECT: SAMPAO'S RESTAURANT</p>	<p>NO. 12345</p>
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**RESOLUTION NO.**

**WHEREAS**, Magna Sampaio, owner of Sampaio's Restaurant, has filed an application for a waiver of Section 4-9-4(A) of the City Code which prohibits the sale of alcoholic beverages within 300 feet of a church, public school, or public hospital; and

**WHEREAS**, Sampaio's Restaurant, located at 4800 Burnet Road, Austin, Texas, is within 300 feet of the Texas School for the Blind and Visually Impaired, located at 1100 West 45<sup>th</sup> Street; and

**WHEREAS**, notice of the application and hearing for the waiver was provided in accordance with Section 4-9-5 of the City Code; and

**WHEREAS**, a public hearing concerning this proposed waiver was held by the City Council on January 12, 2006, in accordance with the provisions of Section 25-1-132 of the City Code; and

**WHEREAS**, the Texas School for the Blind and Visually Impaired has provided written consent to the waiver; and

**WHEREAS**, the City Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, has determined that the waiver request is in the best interest of the community; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

Sampaio's Restaurant is granted a waiver from Section 4-9-4 of the City Code and is allowed to sell alcoholic beverages at 4800 Burnet Road, Austin, Texas; and the waiver shall expire on the sale or transfer of the business to any other individual or entity, whether by lease or any other arrangement, on cessation of the business, or on revocation of the alcoholic beverage permits granted to Sampaio's Restaurant for this site.

**ADOPTED:** \_\_\_\_\_, 2006    **ATTEST:** \_\_\_\_\_

Shirley A. Gentry  
City Clerk